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L/UNA - OSBORNE, L - FRONT OFFICE

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SUBJECT: UN PROTESTS DISCRIMINATION IN VISA PROCESSING AND
APPLICATION OF TRAVEL RESTRICTIONS

¶1. (C/NF) Summary and Action Request: USUN Host Country Minister Counselor and deputy accompanied Department Visa Office Diplomatic Liaison Chief (CA/VO/P/D) Carrie Muntean to meetings on October 22, 2008, with UN officials to discuss visa issues. In meetings with the UN's Travel and Transportation Service and especially with the UN Office of Legal Affairs, the UN voiced concerns regarding alleged delays in G-4 (UN Secretariat) visa issuance, especially for individuals of certain nationalities. More significantly, the UN registered strong objection to the U.S. requirement that certain UN Secretariat members apply for G-4 visa renewal abroad, arguing that such treatment discriminates on the basis of nationality and violates overriding US treaty obligations. The UN Assistant Secretary General for Legal Affairs also voiced objections to U.S.-imposed travel restrictions on Secretariat members of certain nationalities on the same grounds, and urged Muntean to convey the UN's views to the Department. He expressed a willingness to travel to Washington in the next several weeks to discuss the issues with Department interlocutors, including the Legal Adviser, with whom he plans to speak during the week of October 27. USUN seeks Department guidance in responding to the UN's objections (see paragraph 9). End Summary and Action Request.

Visa delays and the USG requirement that certain Secretariat members renew their G-4 visas abroad

¶2. (C/NF) CA/VO/P/D Diplomatic Liaison Chief Carrie Muntean visited USUN on October 21-22, 2008, to observe USUN visa operations. USUN Minister Counselor for Host Country Affairs and his deputy accompanied her to a meeting with Thomas Hanley, head of the UN Travel and Transportation Service, and two key staffers to discuss visa issues. Among issues of common concern, Hanley objected on principle that Washington was requiring certain individual UN employees (e.g., UNDP's Mohammad Younus, an Afghan national) to renew his G-4 visa abroad. Hanley indicated that requiring individuals of certain nationalities to apply abroad appeared to be discriminatory profiling contrary to UN principles, and noted the UN's and the applicant's concern that the applicant could be stuck overseas and unable to return to the U.S. if the visa were not issued. The situation is exacerbated by uncertainty as to the reason such applicants must be interviewed abroad, despite U.S. explanations regarding the prohibition on visa interviews being conducted in the U.S.

¶3. (C/NF) In a separate meeting with the UN Office of Legal Affairs (OLA), recently arrived Assistant Secretary General (and Deputy to the UN Legal Counsel) Peter Taksoe-Jensen, assisted by three OLA attorneys, raised the issue of visa delays, alluding to the disconnect between the UN community's expectation that visas be issued within 15 (working) days from the time an application is submitted versus the reality that visa applications of certain nationals take three to six

months to process either for visa renewals in New York or initial issuance abroad. Taksoe-Jensen noted that it takes the UN a long time to identify the proper person for a specific position, and it was difficult for the UN to have to wait an additional extended period for the visa to be issued to the individual. Visa delays also impede the functioning of the UN, especially in cases when a UN staffer needs to go abroad on official business on short notice and then could be stuck abroad for weeks at UN expense while his/her visa request moves slowly through administrative processing. UN Travel and Transportation Chief Hanley, who attended the meeting with OLA officials, noted that the visa delays had been reduced significantly in recent months, that there were now no long-standing G-4 visas pending, but that delays had been a significant problem in the past and the applications of Secretariat members of certain nationalities do sometimes take a long time to process. In cases where the process approaches six weeks, Hanley indicated his office contacts USUN to facilitate and expedite visa issuance.

4 (C/NF) Taksoe-Jensen stated that as a matter of principle the UN wants to avoid any discrimination on the basis of nationality, that G-4 visa reciprocity schedules should not apply in the UN context, and that the US should conform its regulations and administrative procedures or policies to the requirements of U.S. international treaty obligations (e.g., the UN Charter, the US-UN Headquarters Agreement, the General Convention on the Privileges and Immunities of the UN, and the Vienna Convention on Diplomatic Relations). UN OLA Secretary of the UN Committee on Relations with the Host Country, Surya Sinha, noted that if the U.S. were to try to avoid discrimination by relegating all UN staff members and dependents to a limited visa (e.g., one entry, 3 months), the

UN would consider that an impediment to transit to and from the Headquarters District, and thus a violation of the Headquarters Agreement.

15. (SBU) Muntean stated that her office is well aware of the different obligations that exist pursuant to the Headquarters Agreement, and that her office works closely with USUN to expedite visa clearances. In the post-9/11 era, certain procedures were put in place which may have slowed the visa issuance process somewhat, but they are necessary,

16. (C/NF) Assistant Secretary General Taksoe-Jensen viewed the case of Mohammad Younus, who has been asked to apply abroad, as an urgent issue, and stated that he would be willing to travel to Washington in the coming weeks to discuss that issue and others with Department and other USG agency interlocutors. He reiterated that U.S. treaty obligations override host country laws and administrative procedures. The UN cannot ask staffers to go abroad at their own expense to apply for a visa. The UN differentiated the case of another Afghan national who had been asked to apply abroad and who did in fact travel to Canada to obtain his G-4 visa. In that case, the UN pointed out that the visa was issued without the USG-required cable from the UN being sent to the US visa issuing post in Canada, and that the USG instruction that the person apply abroad was conveyed through the UN Travel and Transportation Service office, but in a sealed envelope for the applicant, which the UN Travel and Transportation Service office declined to open (Note: USUN had also informed the UN Travel and Transportation Service office directly that the applicant would have to apply abroad).

USG repeal of fee waiver for Observer Mission personnel on B visas requesting extensions of stay

17. (C/NF) In regard to the Department of Homeland Security's recent re-imposition of a \$300 USD fee on extensions of stay for members of Observer Missions who are in the U.S. on business visitor (B-1) visas (e.g., Organization of the Islamic Conference, League of Arab States, Gulf Cooperation

Council), UN OLA indicated that the UN regards such individuals as UN invitees under the Headquarters Agreement, to whom visas should be issued promptly and without charge, as such fees impair the functioning of these Observer Missions, and, in the UN's view, constitute yet another impediment to transit to or from the Headquarters District under the Headquarters Agreement, even though the fee is for an extension of stay in the U.S. rather than visa issuance.

UN urges reconsideration of the travel restrictions on UN personnel

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18. (C/NF) Taksoe-Jensen also raised the issue of USG-imposed travel restrictions on nationals of certain countries as violating the principle of non-discrimination, thus violating the Headquarters Agreement. Muntean indicated that while her office is not the appropriate addressee for questions regarding travel restrictions, she would convey UN OLA's concerns in this regard to the appropriate office in the Department.

19. (C/NF) COMMENT AND ACTION REQUEST: The meetings with the UN, particularly with UN OLA Assistant Secretary General Taksoe-Jensen, were the UN's most forceful iteration of its firm objections to certain U.S. procedures regarding G visa issuance and travel restrictions, which the UN views as discriminatory, and therefore an unlawful violation of US-treaty obligations. It is clear the UN intends to pursue a satisfactory resolution of its concerns at an appropriately high level. USUN welcomes Department's definitive guidance in responding to the UN's objections and concerns.

Khalilzad